

NAL/Acct. No. 815ST0001

Section 302 of the Act prohibits the sale of transmitting equipment not in compliance with the FCC rules.

3. On June 19, 1998, the District Director, Seattle Field Office, issued a Notice of Apparent Liability ("NAL") to Northwest in the amount of \$7,000 for willful and repeated violation of Section 302 of the Act and Sections 2.803 and 2.815 of the Rules.⁴ In its July 3, 1998, response to the NAL, Northwest sought rescission of the forfeiture stating: (1) that it never intended to offer or recommend the amplifiers for CB use; (2) its violation was not intentional; (3) that it has ceased selling the illegal equipment; and (4) that it is a "small retailer" trying to make ends meet. In its March 15, 1999, *Forfeiture Order*, the Bureau affirmed the forfeiture proposed by the NAL after finding that on two separate occasions a Northwest employee offered to sell, and on one occasion, sold the illegal amplifiers, and concluding that despite the lack of intent, the cited violations were willful.⁵ The Bureau also noted that while remedial action to correct a violation is commendable, it will not nullify a forfeiture penalty, and, further, that Northwest had not provided any documentary evidence to evaluate its ability to pay the forfeiture.

DISCUSSION

4. The forfeiture was issued pursuant to Section 503 of the Act⁶ and Section 1.80 of the Rules.⁷ In assessing the forfeiture amount, the Bureau followed the forfeiture standards established in Section 503 of the Act and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, FCC 99-407 (Released December 28, 1999) ("*Policy Statement*"). Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁸

5. In its request for reconsideration, Northwest seeks cancellation or reduction of the forfeiture on the basis of inability to pay the \$7,000 forfeiture amount. In support, Northwest submits copies of its financial statements from 1996, 1997, and 1998. Although other factors can be considered, the best indication of a company's ability to pay a forfeiture amount is its gross revenues. *See generally, PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088 (1992). Northwest's financial statements indicate that it had gross revenues of \$ 379,516.27 in 1996; \$398,181.83 in 1997; and \$412,589.01 in 1998. The forfeiture amount of \$7,000 is not excessive in the context of these revenues.

6. We conclude that Northwest has failed to provide a sufficient justification for canceling or reducing the forfeiture and we affirm the forfeiture in the amount of \$7,000. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 1.106 of the Rules,⁹ Cellular Systems Northwest, Inc.'s petition for

⁴ *Notice of Apparent Liability*, NAL/Acct. No. 815ST0001 (Released June 19, 1998).

⁸ The word "willfully" as employed in Section 503 of the Act does not require that the violation in question be intentional. It is necessary only that a licensee knew it was doing the act in question. *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁶ 47 U.S.C. § 503.

⁷ 47 C.F.R. § 1.80.

⁸ 47 U.S.C. § 503(b)(2)(D).

⁹ 47 C.F.R. § 1.106.

reconsideration of the *Forfeiture Order*, NAL No. 815ST0001, issued to it on March 15, 1999, **IS DENIED**.

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to section 504(a) of the Act.¹⁰ Payment may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the "Federal Communications Commission," to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 815ST0001 referenced above. Requests for full payment under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.¹¹

8. **IT IS FURTHER ORDERED** that, a copy of this Order shall be sent certified mail, return receipt requested, to Cellular Systems Northwest, Inc., 1502 Cole Street, Enumclaw, Washington 98022.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

¹⁰ 47 U.S.C. § 504(a).

¹¹ See 47 C.F.R. § 1.1914.